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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,041	03/31/2004	Richard E. Eck	RP-01330-US2	4139

28735 7590 02/14/2005

BOMBARDIER RECREATIONAL PRODUCTS INC
INTELLECTUAL PROPERTY DEPT
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EXAMINER

OLSON, LARS A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 02/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,041

Applicant(s)

ECK, RICHARD E.

Examiner

Lars A Olson

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendrickson (US 3,857,127).

Hendrickson discloses the same kit as claimed, as shown in Figures 1-4, that is comprised of first and second abutments, defined as Part #16, and first and second fasteners, as shown in Figures 1 and 2, for securing said first and second abutments in a given position with respect to a support surface of a deck, defined as Part #10, for a watercraft, where said first and second abutments protrude from said support surface, as shown in Figure 1, in such a manner that a water sport implement laid on said support surface could abut against or between said first and second abutments in order to aid a user in putting on said water sport implement.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hendrickson.

Hendrickson, as set forth above, discloses all of the features claimed except for the use of an abutment made from a resilient material.

The use of an abutment or other object made from a resilient material would be considered by one of ordinary skill in the art to be a design choice based on the required strength and physical characteristics of said abutment.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize an abutment made from a resilient material in combination with the boarding platform kit as disclosed by Hendrickson for the purpose of providing an abutment that is flexible and adjustable in order to accommodate a variety of water sports equipment.

5. Claims 4-7, 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Larson et al. (US 5,979,350) in view of Hendrickson.

Larson et al. discloses a watercraft that is capable of towing a water sport implement, as shown in Figures 1-4, that is comprised of a hull, a deck that is disposed on said hull, and a support surface on said deck, as shown in Figure 3, that is adapted to support water sport implements and their users.

Larson et al., as set forth above, discloses all of the features claimed except for the use of one or more abutments that are secured to said deck.

Hendrickson, as previously cited, discloses a boarding platform kit that is comprised of first and second abutments, defined as Part #16, and first and second fasteners, as shown in Figures 1 and 2, for securing said first and second abutments in a given position with respect to a support surface of a deck, defined as Part #10, for a watercraft, where said first and second abutments protrude from said support surface, as shown in Figure 1, in such a manner that a water sport implement laid on said support surface could abut against or between said first and second abutments in order to aid a user in putting on said water sport implement.

The use of three abutments secured to a deck instead of two abutments would be considered by one of ordinary skill in the art to be an obvious multiplication of parts for the purpose of providing support over a greater area of said deck.

The use of an abutment or other object made from a resilient material would be considered by one of ordinary skill in the art to be a design choice based on the required strength and physical characteristics of said abutment.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to utilize a plurality of abutments secured to a support surface of a deck, as taught by Hendrickson, in combination with the watercraft as disclosed by Larson et al. for the purpose of providing a watercraft that is capable of towing a water sport implement with a means for supporting said water sport implement on a deck in order to facilitate putting on said water sport implement by a user.

Allowable Subject Matter

6. Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Jessen et al. (US 6,314,902) discloses a swim step for a watercraft, said swim step having a notch for supporting a water sports implement. Shimmell, Sr. et al. (US 6,125,783) discloses a mount system for a support surface on a deck of a watercraft. Hegg et al. (US 4,548,155) discloses a swim platform for a boat. Thompson (US 4,417,539) discloses a universal chock for supporting equipment on a deck of a boat.

8. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

lo

February 9, 2005

**LARS A. OLSON
PRIMARY EXAMINER**


2/9/05